

Opening and closing remarks of First Vice-President Frans Timmermans on the Rule of Law in Poland, at the European Parliament's Committee on Civil Liberties, Justice and Home Affairs

Opening Remarks

Last time we spoke about this issue in this Committee was on 22 March 2017. My task today is to update you about what has happened since.

Four laws have since that moment been adopted by the Polish Parliament: the law on the National School of Judiciary, the law on the Ordinary Courts Organisation, the law on the Supreme Court and the law on the National Council for the Judiciary.

Late July, the Commission determined after careful analysis that the four laws, as adopted by the Polish Parliament, would have a very significant negative impact on the independence of the Polish judiciary and would increase the systemic threat to the rule of law.

We acknowledge and welcome that, for now, two of the four laws have been vetoed by President Duda. However, the fact that two of the four laws have been signed and the future of the other two is unclear meant that we had to set out clearly our concerns in a new Rule of Law Recommendation.

This third Recommendation addressed to Poland on 26 July complements the previous ones and presents the grave concerns of the Commission on the planned reforms of the Polish judiciary. It also asks the Polish authorities to restore the independence and legitimacy of the Constitutional Tribunal as guarantor of the Polish Constitution. The Commission asked that the Polish authorities address these concerns within one month.

On 28 July, the Commission also launched an infringement procedure against Poland for breach of EU law by the law on the Ordinary Courts Organisation, following its publication on the same day. And we also asked for a reply within one month.

To summarise, the Commission has spent over a year laying out its concerns with regard to the Rule of Law in Poland. We have analysed, identified, recommended and warned. We have sent three Recommendations and have launched an infringement procedure on the Law on Ordinary Courts.

To complete the picture, you should also know that Polish government refuses to follow the interim measures issued by the European Court of Justice with regard to the logging in the Białowieża Forest and the Polish government has

announced further measures with regard to, what is called, 'deconcentration of the media'. Also, Commissioners Jourova and Thyssen sent a joint letter to the Polish authorities outlining the Commission's concerns as regards the Polish provisions introducing different pensionable ages for men and women. After years of progress with regard to equality between women and men Poland is now the only EU country on the verge of moving in the opposite direction.

On 28 August, we received a reply to our third recommendation. Before replying, the Polish government twice requested more clarifications on our concerns, which we promptly and elaborately provided. We are still analysing the reply carefully. However, also from Polish press statements, I can already inform you that the Polish reply does not announce any concrete measures to address the issues raised by the Commission. Our analysis will carefully focus on the motivations they have given. I cannot tell you today what will be the next step of the Commission. We will have to discuss that also in the College, and at some point also take it to the Council.

However, let me make some general remarks about where we stand. We have dedicated a large number of pages explaining in detail our concerns and have done so as meticulously and thoroughly as we could. Politically we are colour blind when it comes to the Rule of Law. Moreover, our concerns are shared widely – the Venice Commission, the Council of Europe, the United Nations, the Network of the Presidents of Supreme Courts and of the Councils for the Judiciary, lawyers associations and NGOs. On 16 May, we had a first extensive discussion in the General Affairs Council and there was broad agreement around the table that the rule of law is a common interest and a common responsibility of EU institutions and Member States. A very broad majority of Member States supported the Commission's role and efforts to address this issue. Member States called upon the Polish government to resume the dialogue with the Commission with a view to resolving the pending issues and looked forward to being updated as appropriate in the General Affairs Council.

Incidentally I have invited the Polish Ministers to come to Brussels to discuss these issues with me and I did not get an official reply but in the media I saw that the Foreign Minister says he sees no merit in coming to talk to us. So I've tried really to have this dialogue but on the other side there is apparently no wish to do so. But we remain open. Any moment they want to come and talk to us, I am open to that, obviously.

This Parliament – directly elected European Parliament – has an important role to play, and will continue to play an important role because if this Parliament has a fundamental role it is to uphold of our common European values, and the Rule of Law is pivotal in that.

The Polish government repeatedly has made clear that it does not accept these concerns, that it has won the elections and is fulfilling the will of the people. It has also resorted to attacking the messenger, questioning the Commission's professionalism, questioning the Commission's legitimacy, and claiming that it isn't doing anything that other Member States haven't done themselves. I honestly would beg to differ.

We have always said that our stated objective is not the imposition of

sanctions or resorting to Article 7. On the contrary, we are looking for a real, constructive dialogue in order to redress the Rule of Law situation in Poland. However, we have also made clear our determination to use all our tools, all the tools that we have at our disposal as guardians of the Treaties, when this is necessary. We remain open to dialogue; we remain open to finding constructive solutions. But at the same time we must discuss internally in the Commission, with the Member States in the Council and with you here in Parliament the new situation that has now arisen.

The reason we won't let go has to do with two fundamental issues. One, obviously, the Rule of Law is a value in itself, it is – so to say – who we. It is what defines us as Europeans; Rule of Law-based democracies. But two, it also has to do with the way the EU functions. First and foremost, the Internal Market. This market can only really function if there is trust and confidence between governments, between economic operators, between citizens. Trust and confidence that when doing business in Europe and when there is a conflict, we are all equal under the law, and we all have access to independent judges. As you know, national judges are EU judges. They apply EU law directly. They also have a direct unimpeded access to the European Court of Justice. And it just will not function if this direct access is blocked because there is a political filter or political interference by government. The independence of the judiciary is essential to make the whole EU system function. You have to rely on the fact that national judges are also EU judges. And if you can't rely on the fact- if you go back to situation where the ruling of a court is determined by a phone call from party central, then we have a serious problem. In that context I have to say independence of national judges is key for the effective cooperation between Member States in the area of Justice and Home affairs. Suffice to refer to the principle of mutual recognition of national Court decisions in the context of, for example, the European Arrest Warrant and the 'Brussels I' regulation.

Of course, of course, democratically-elected Governments are free to implement judicial reform. The Commission does not contest the right of the Polish government to introduce judicial reforms. That's not the point at all. But we do maintain that judicial reforms must respect the Rule of Law as one of the fundamental values which all Member States signed up to when they joined the EU, signed and ratified the European treaties. Everybody living in the EU has the right to rely on an independent national and European judicial system and deserves courts free from any form of interference, including by politicians.

As I said, we will discuss in the College the next steps and for this reason I'm very interested to hear what you have to say about this. Upholding Rule of Law is a shared responsibility of all EU institutions and of all Member States. Of course, I intend to discuss this matter in the Council of Ministers as agreed in May that I would come back and report to them. In conclusion I would to thank you, and in particular this Committee and its members, for the continuous efforts to uphold the rule of law in the EU and for supporting the Commission's actions concerning the situation in Poland.

Closing Remarks

I was a student in 1980 and I remember vividly seeing Lech Walesa stand up for common European values. I remember vividly in the 1980s through the years I was a student and I was a soldier afterwards, that we thought that the vision of Europe was eternal, that it could never be broken and we needed stability. But it was Solidarnosc and Charter 77 who kept the dream alive of a Europe undivided. And without them Europe might even be divided today, in different lines, different ways. Because regardless of who is in charge in Russia today or yesterday, they really liked a divided Europe. And they would like a divided Europe again in the future.

We fight for European unity. European unity based on common values. European unity based on law. European unity based on the respect for law, for treaties signed and ratified by sovereign parliaments. And if in those treaties it is the duty of the Commission to assure that Member States actually respect the treaties they have signed and ratified, this Commission will take this duty seriously even if politically this might be extremely difficult.

I maintain that Poland today is more sovereign, freer, has borders that are more secure, than for centuries in the past. It has been perhaps a thousand years since the Polish people have been as free to decide their own destiny. Poland was pushed around on the European map. If Germany was powerful Poland would be 300 km to the East, if Russia was powerful Poland would be 300km to the West. But Polish people did not get to the side where the country was. Now it does. And I just don't accept people saying that the European Union takes away sovereignty from Poland. No, it creates a sovereignty in Poland that Poland hasn't had for centuries.

This is good for all of us, for all of us. I for one cannot imagine a successful European Union without a prosperous, fully integrated Poland in that European Union.

When we talk about the Rule of Law in Poland today, we talk about the destiny of this continent, the destiny of Europe. This is not just about Poland. I wanted to say this as background because this is how I see the situation. This is how serious it is. And those who say that the Commission has got it all wrong – can I remind you that we are of exactly same view as for instance the Venice Commission, which made its analysis upon request of Polish government. So the Polish government asked for this analysis and when it got it but it didn't like it, it just decided to ignore it. If you say the Commission doesn't understand anything, please observe that we are not alone in this. Please also observe – let me just stress this very clearly – that when we discussed the issue in the Council in May – this sometimes get overlooked – an overwhelming majority of Member States supported the position of the Commission. This is not the Commission on her own. Parliament has been extremely clear about this. So I think the three institutions are doing their utmost to help Poland resolve the situation.

We had the answer of the Polish government and we will reply to them. But I want to say, because some of the issues related today, please don't accept the point that other Member States have identical solutions. We will elaborate on that when we respond but that is not the case. There is not one Member State where the Minister of Justice can arbitrarily fire a judge

without any conditions set. Fire judges, hire judges. Whenever we put issues on the table and somebody shouts this is not true, please look to the text, please look to the text. We did. We have written Recommendations in great detail. The Polish government over the summer sent two letters asking for clarifications. We immediately responded by given these clarifications. Please, let's stick to those texts and then we'll see how it comes.

What I find interesting or slightly ironic is this constant demand for respect – which I think we have given, I have always been very respectful – but it has not really been reciprocated may I say.

We are open for dialogue and I don't care if they want to continue to attack me personally and call me stupid, incompetent, etc. I will still be there for a dialogue because the matter is so important for the future of Europe.

But there comes a point where we will have to make a choice. Are we going to drop the issue because it is politically too difficult? Or are we going to use all the instruments we have at our disposal? And I will tell you here today, let there be no misunderstanding, there is no way we can drop the issue because this is politically too difficult, because the consequences for the EU as a whole, when the separation of powers is put into doubt, are too grave. And the Commission will use every instrument at its disposal when the separation of powers is at risk.

As I said in my introduction – and I really want to be very clear on that. Not just the principal issue of the Rule of Law but also the whole functioning of the EU in all its aspects depends on the independence of the judiciary and the clear separation of powers. If that is put into doubt, we have to react and help Member States not go that road. That is the issue, the core issue that is at hand today.

And let me be very clear on another issue as well. At the end of the day, the only ones who could determine the fate of the Polish nation are the Polish people. We cannot do that, none of us. But what we can do and what we must do, what we are obliged to do, is to say, when we are of the opinion that Treaties signed and ratified by Member States are being violated, we need to step in and say that this is the case. I think it would be a dereliction of duty on the part of the Commission if we were not to do that. It is my duty to do it, it is the Commission's duty to do it. And let me just say – for the sake of clarity because I have seen quite lot of that – this is not a personal issue. This is not me talking. When I speak, I speak on behalf of the Commission, and the Commission is united on this. And when I speak, I also speak on behalf of what I see is the thinking of many many Member States. And may I add today since I am here, that after having listened to you, I have the impression I also speak on behalf of a majority of the European Parliament when I talk about this.

Thank you very much.

European Commission appoints new Head of regional office in Milan

Mr Gaudina, an Italian national, will take up office on 1 September 2017. He brings over 30 years of experience, of which over 20 years of institutional communications in the EU context. In his role, Mr Gaudina will represent the European Commission and will encourage the debate on EU issues, mainly in Northern Italy.

For the past eight years, Mr Gaudina has been Head of the Communication Unit at the European Research Council (ERC) in Brussels. In this role, he planned and coordinated the ERC communication strategy, including the promotion of ERC calls and success stories. Between 2007 and 2009, he worked in the Commission's Communication department. There, he was in charge of partnerships with Member States for communication actions, of the European Public Spaces – public areas in the European Commission buildings across in Member States where citizens can learn about the EU – and of the actions for youth and schools. Between 2004 and 2007, Mr Gaudina worked in the European Commission Representation in Rome, Italy. In his role, he organised the 50th Anniversary of the Rome Treaties' celebrations and launched the European Public Space at the premises of the Representation in Rome.

Mr Gaudina started working for the European Commission in 1994 as a communication officer. Before joining the Commission, he was a journalist in Italy.

Mr Gaudina holds a degree in Political Science from the University of Turin, Italy. In addition to his native Italian, Mr Gaudina is fluent in English, French, Spanish and has a basic knowledge of Swedish.

Background

The Commission has Representations in all 28 Member States as well as Regional Offices in Barcelona, Belfast, Bonn, Cardiff, Edinburgh, Marseille, Milan, Munich and Wroclaw. The Representations are the Commission's eyes, ears and voice on the ground in all EU Member States. They interact with national authorities and stakeholders and inform the media and the public about EU policies. The Representations report to the Commission's headquarters on significant developments in the Member States. Since the beginning of the Juncker Commission, Heads of Representations are appointed by the President and are his political representatives in the Member State to which they are posted.

For More Information

http://ec.europa.eu/italy/index_it.htm

Network of payment card fraudsters dismantled

13 June 2017

A successful operation that took down an international criminal network of payment card fraudsters was carried out by Central Investigating Judge number 5, the Public Prosecution Office at the Audiencia Nacional and National Police of Spain and the Specialised Public Prosecutors' Office of Bulgaria, together with the General Directorate Combating Organized Crime in Bulgaria, with the support of Eurojust and Europol's European Cybercrime Centre (EC3).

As a result of the cross-border action, 31 suspects were arrested (21 in Spain, 9 in Bulgaria and one in Czech Republic) and 48 house searches (14 in Spain and 34 in Bulgaria) were carried out. The suspects were in possession of equipment used to forge payment cards, payment card data readers-recorders, skimmers, micro cameras, devices to manipulate ATMs, as well as cash and numerous counterfeit cards, drugs and forged euro banknotes.

Between 2014 and 2017, the criminal network installed skimming devices on an average of 400 ATMs every year, to copy and clone the data contained on the bank cards. The forged cards were then used to make illegal transactions in 200 ATMs outside the European Union, mainly in the USA, the Dominican Republic, Malaysia, Indonesia, Vietnam, Peru, the Philippines and Costa Rica. Approximately 3 000 EU citizens were affected by the criminal network, with losses of at least EUR 500 000.

During the investigation, Eurojust ensured close contacts and coordination among the prosecuting and investigating authorities in Spain and Bulgaria. Europol supported the case by providing tailored intelligence analysis and expertise to the investigators and deploying mobile offices on the spot to Spain and Bulgaria. Several coordination and operational meetings took place prior to the action at Eurojust and Europol. Due to the demanding investigative measures run on an international level, a joint investigation team (JIT) was set up between the cooperating countries with the assistance of Eurojust and Europol.

Francisco Jiménez-Villarejo, National Member for Spain at Eurojust, said: *'This successful operation confirms Eurojust's commitment to protect the assets of EU citizens from falling into the hands of cyber fraudsters. An entire criminal network was taken down and, as a result, is no longer able to defraud innocent victims, thanks to the joint efforts of the Spanish and Bulgarian prosecuting authorities, and the valuable support provided by their National Desks at Eurojust.'*

Kamen Mihov, National Member for Bulgaria at Eurojust, said: *'The joint operation was very successful. The level of coordination in the context of*

the JIT was swift, very professional and result-oriented. We highly appreciate the high level of expertise of our colleagues in the Specialised Prosecutors' Office of Bulgaria as well as the best practice used in dismantling of this complex OCG.'

Steven Wilson, head of EC3 at Europol, said: *'Police forces in the EU are utilising Europol's unique tools to ensure that electronic payment transactions are made safer. We are continuously investing more resources into this vital support platform, and now we are seeing the results of this essential work.'*

Pressemitteilung: Mit dem Treuhandfonds für die Zentralafrikanische Republik wurden "positive Ergebnisse" erzielt, so die EU-Prüfer

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Loss of biodiversity endangers our livelihood

EESC sounds the alarm and blames Commission and Member States for lack of political will.

The EESC sounds the alarm amid a summer of heavy storms, landslides and other freak weather events. Several EESC proposals for the better protection of nature have been met with no reaction from the Commission or the Member States so far. *"We again call on the Commission and Member States to ensure a swift and consistent implementation of the biodiversity strategy, particularly of the Birds and Habitat Directive and the Water Directive as important means of protecting biodiversity"*, says German EESC member Lutz Ribbe, referring to his [opinion on EU biodiversity policy](#).

Natura 2000 – 20 years overdue: EESC calls for dedicated budget

The Natura 2000 network is mainly based on the Habitat Directive with special protection areas for birds under the Birds Directive. Its purpose is to preserve rare flora and fauna and unique biotopes in designated areas. This network should have been completed back in 1995. Now in 2017, nearly all Natura 2000 sites have finally been designated – comprising around 18% of the EU's land area – but many of the sites still do not enjoy permanent legal protection and only around half of them have management plans. *"This is evidence of incapacity or just ignorance on the part of the EU and many of its Member States. We understand that the EU is facing many challenges, such as Brexit, unemployment, and terrorism, which we as representatives of civil society are working on side by side with the Commission. **But we must not forget that biodiversity is our livelihood and continued plundering of our nature robs us of this livelihood**",* warns Mr Ribbe. The EESC believes that one of the main reasons for lagging behind in meeting the original goals lies in the funding for Natura 2000 areas, which almost exclusively comes from the European Regional Development Fund (ERDF) and the European Agricultural Fund for Rural Development (EAFRD). *"In these two funds, Natura 2000 clashes with many other projects, leaving nature protection in many cases the loser. We have always warned against this conflict of interest and call again on the Commission to swiftly approve an extra Natura 2000 budget with a precise cost calculation as the starting point",* outlines Mr Ribbe. Experts estimate that around € 10 billion is needed per year, particularly in order to compensate landowners for their losses or to pay for special services. *"Nature protection is a public good and must not be carried out at the expense of the land owners",* states the EESC.

Biodiversity is a cross-cutting issue: The CAP reform must take it into consideration

Pollinators, decomposers and many other species cannot be protected by focusing solely on the designation of protected areas. Biodiversity needs to be included in other policies too, particularly in the agricultural sector. It is principally this sector – as indeed the Commission and Council rightly emphasise – that causes the highest degrees of pressure on terrestrial ecosystems. *"We therefore do hope that the mid-term review of the 'ecological focus areas' and the upcoming reform of the Common Agriculture Policy (CAP) will also focus on the achievement of the biodiversity objectives",* says Mr Ribbe.

Inconsistencies in EU policies are not limited solely to agriculture policy; a lack of implementation and concerted action can be pinpointed in other policy areas as well. In the EESC's view, biodiversity is comparable to climate protection, which should be addressed across all policies. It is not just about conserving animal or plant species: **it concerns the very conditions of human existence and therefore ought to be a cross-cutting issue.**

As regards the protection of biodiversity, the EESC stresses that there is no shortage of laws, regulations, political declarations and recommendations in the EU. *"The problem is the lack of implementation. This whole judicial framework is not worth the paper on which it is written as long as it is not transformed into real action,"* concludes Mr Ribbe. *"The Commission has the*

tools and means, not least in the European Semester, to encourage the Member States to stick to their obligations. For us, this failure is a sign of the Commission's and Member States' lack of political willingness and cooperation."